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against the facts of the instant case and provides the basis for the "vertical separability" of valid remainders from void remainders.¹⁸

In effect, the court applied the current statute *sub silentio*, perhaps in an effort to provide case law for similar questions in the future which might not have benefit of the statute. The law from foreign jurisdictions which, if applied, would have effected the identical result, is passed up seemingly by the reluctance of the court to overrule themselves with foreign law. While the noted case does present a violation in law of the rule against perpetuities, there is no violation of the purpose of the rule in fact. This allows a decision in keeping with the present trend to maintain the testator's plan of distribution and lends support to the public policy evidenced by statutory revision of the rule against perpetuities.

UNITED NATIONS CHARTER—TREATY OF UNITED STATES— SUPERSEDES STATE LAW

An alien, ineligible to attain citizenship in the United States of America because of ancestry,¹ received land in the State of California by grant deed. The state claimed that this acquisition was in violation of the Alien Land Law² of that state, which forbids aliens not able to attain citizenship from owning land. It was further contended that, by another provision of this same act,³ the land which had been deeded to this alien had escheated to the state. *Held*, that since the United Nations Charter is a treaty, the Alien Land Law, which is in direct conflict with the Charter, must yield to its superior authority. *See Fujii v. State*, 217 P.2d 481 (Cal. App. 1950).

The President of the United States has the power to negotiate treaties⁴ with other sovereign nations and, upon advice and consent of the Senate,⁵ these documents with the Constitution and Laws of the United States become the supreme law of the land.⁶ The judiciary in an effort to declare the force and effect of treaties have divided them into two categories: one, immediately operative, is called a self-executing treaty;⁷ the other, needing implementing legislation, is labeled executory.⁸ United States treaties are usually found to be self-executing contracts,⁹ but those instruments which

18. See note 16 *supra*.

1. 42 STAT. 1022 (1922); 46 STAT. 1511 (1931); 8 U.S.C. § 703 (1946).

2. CAL. GEN. LAWS, ACT. 261, § 1&2 (Deering, 1944 Ed.).

3. CAL. GEN. LAWS, ACT. 261, § 7 (Deering, 1944 Ed.).

4. *United States v. Pink*, 315 U.S. 203 (1942); *United States v. Belmont*, 301 U.S. 324 (1937); *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304 (1936).

5. U.S. CONST. ART. II, § 2.

6. U.S. CONST. ART. VI, § 2.

7. *Asakura v. Seattle*, 215 U.S. 332 (1924); *Foster v. Neilson*, 2 Pet. 253 (U.S. 1829); *Indemnity Ins. Co. v. Pan Am. Airways*, 58 F. Supp. 338 (S.D.N.Y. 1944); *General Electric Co. v. Robertson*, 21 F.2d 214 (D. Md. 1927), *rev'd* 32 F.2d 495 (4th Cir. 1929).

8. *Robertson v. General Electric Co.*, *supra* note 7; *Ex parte Dove*, 49 F.2d 817 (D. Minn. 1925); *American Express Co. v. United States*, 4 Ct. Cust. App. 146 (1913).

9. *Amaya v. Stanolind Oil & Gas Co.*, 158 F.2d 554 (5th Cir. 1946).

address their subject matter to the policy making rather than the judicial branch of government are considered as executory.¹⁰ Congress may legislate upon all matters properly the subject of treaties.¹¹ Therefore, the intentions of the contracting parties even though expressed in a document executory by nature will still be given effect.¹²

Once recognized by the government, the courts will enforce all matters properly¹³ contained in the treaty.¹⁴ All state and national laws which conflict with treaty provisions are immediately superseded and nullified.¹⁵ In construing these provisions to give them effect, a liberal interpretation¹⁶ is applied in an effort to effectuate the aims and purposes of the high contracting parties.¹⁷ The court in its interpretation is bound by all matters clearly declared.¹⁸ Where, however, it is difficult to ascertain the exact intention from the instrument alone, the court will look beyond the immediate document.¹⁹ Either diplomatic correspondence or affirmative actions by the parties relying on the instrument may influence the decision of the court.²⁰

In 1945, the President of the United States, upon advisement by the Senate,²¹ declared effective a document,²² which had two equally important purposes; to recognize the equality of all peoples and to establish peace throughout the world.²³ This document, the Charter of the United Nations, has been recognized as a valid treaty of the United States.²⁴ In the

10. *Cameron Septic Tank Co. v. Knoxville*, 227 U.S. 39 (1913); *Foster v. Neilson*, *supra* note 7; *Turner v. American Baptist Missionary Union*, 24 Fed. Cas. 344, No. 14,251 (D. Md. 1858).

11. *Missouri v. Holland*, 252 U.S. 416 (1920); ROTTSHAFFER, CONSTITUTIONAL LAW 388 (Hornbook series 1939); WILLOUGHBY, CONSTITUTIONAL LAW 242 (2d Student ed. 1938).

12. *Missouri v. Holland*, *supra* note 11; *Foster v. Neilson*, *supra* note 7.

13. *Santovincenzo v. Egan*, 284 U.S. 30 (1931); *Asakura v. Seattle*, *supra* note 7 (anything within the foreign relations is proper treaty subject); *Missouri v. Holland*, *supra* note 11 (migratory birds proper subject of treaty).

14. *John Doe v. Joseph Braden*, 16 How. 635 (U.S. 1853); *Vergnani v. Guidetti*, 308 Mass. 450, 32 N.E.2d 272 (1941); *American Express Co. v. United States*, *supra* note 8.

15. *United States v. Pink*, *supra* note 4; *United States v. Belmont*, *supra* note 4; *Horner v. United States*, 143 U.S. 570 (1892) (federal statute is equal to treaty and if subsequent and conflicting with treaty will supersede it); *Ware v. Hylton*, 3 Dall. 199 (U.S. 1796); see *Chinese Exclusion Case*, 130 U.S. 570, 600 (1889) (last expression of sovereign will control).

16. *Factor v. Laubenheimer*, 290 U.S. 276 (1933) (narrow and restricted construction is to be avoided); *Asakura v. Seattle*, *supra* note 7; see *Neilson v. Johnson*, 279 U.S. 47, 51 (1929); *Santovincenzo v. Egan*, *supra* note 13, at 40.

17. *Neilson v. Johnson*, *supra* note 16; *Jordan v. Tashiro*, 278 U.S. 123 (1928) (allowed a hospital under a trade and commerce treaty with Japan); *Sullivan v. Kidd*, 254 U.S. 433 (1921); *Rocca v. Thompson*, 223 U.S. 317 (1912).

18. See note 14 *supra*.

19. *Factor v. Laubenheimer*, *supra* note 16; *Curran v. City of New York*, 77 N.Y.S. 2d 206 (Sup. Ct. 1948).

20. *Cook v. United States*, 288 U.S. 102 (1933); *Cameron Septic Tank Co. v. Knoxville*, *supra* note 10; *Chirac v. Chirac*, 2 Wheat. 259 (U.S. 1817).

21. 59 STAT. 1031 (1945).

22. *Id.* at 1214.

23. *Id.* at 1035.

24. *Balfour, Guthrie & Co. v. United States*, 90 F. Supp. 831 (N.D. Cal. 1950);

instant case, the various applicable provisions of this treaty were interpreted and the court found that the Alien Land Law was in conflict with "both the letter and spirit of the Charter" and must therefore yield to its superior authority.²⁵ The court here was influenced by finding that the natives of Japan were practically the only persons presently affected by this law.²⁶ They found the law discriminatory and declared that only by doing away with it, in accordance with the purposes expounded in the Charter,²⁷ could the United States be true to its pledge in the document.

This case disallowing prejudicial action against the Japanese, and other cases based on color restrictions²⁸ coming within such close proximity seem to indicate that discrimination has started to wane in the United States. Policies of government constantly change, and since 1920 there has been, at least once, a complete shift from isolationism to internationalism. The people of the State of California may have had valid reasons for refusing to allow ineligible aliens to own land in 1920, but today, there ceases to exist any need for this restrictive law. In the past few years the courts have indicated a mature dislike for this statute.²⁹ This decision should be accepted as merely an interpretation of one more case allowing aliens within the borders of a state to own land.³⁰ Whether the court had the right to interpret this Charter without supplemental legislation has received considerable attention³¹ and has been made the subject of a petition for hearing to the Supreme Court of California.³² Due to our government's stand on this same problem in Africa,³³ and a war being fought in Korea under the auspices of this Charter,³⁴ political issues may become involved in the higher court's decision. But, regardless of whether the court reverses or affirms this lower court decree, it will forever remain recorded as a judicial affirmation of a desirable social trend.

Curran v. City of New York, *supra* note 19; *cf.* Sipes v. McGhee, 316 Mich. 614, 619, 25 N.W.2d 638, 644 (1947), *rev'd* other grounds, *sub nom.* Shelley v. Kraemer, 334 U.S. 1 (1947); Kemp v. Rubin, 69 N.Y.S.2d 680, 686 (Sup. Ct. 1947), *aff'd*, 75 N.Y.S.2d 768 (Sup. Ct. 1947), *rev'd* on other grounds, 298 N.Y. 588, 81 N.E.2d 325 (1948); *accord*, International Refugee Organization v. Republic S.S. Corp., 92 F. Supp. 674 (D. Md. 1950); Westchester County v. Ranollo, 67 N.Y.S.2d 31 (New Rochelle City Ct., 1946).

25. *Sei Fujii v. State*, 217 P.2d 481, 488 (Cal. App. 1950).

26. *See Id.* at 485.

27. *See Id.* at 488.

28. *Sweatt v. Painter*, 338 U.S. 865, 5 Miami L.Q. 150 (1950); *Hurd v. Hodge*, 334 U.S. 24 (1947); *Shelley v. Kraemer*, *supra* note 24.

29. *Oyama v. California*, 332 U.S. 633 (1947) (invalidating one section of this law); *accord*, *Takahashi v. Fish and Game Comm'n*, 334 U.S. 410 (1947) (court expressed doubt as to the validity of the statute without ruling upon it); *Palermo v. Stockton Theatres*, 32 Cal. 53, 195 P.2d (1949); *cf.* *Namba v. McCourt*, 185 Ore. 579, 204 P.2d 569 (1949) (court declared unconstitutional a similar statute).

30. *Geofroy v. Riggs*, 133 U.S. 258 (1889); *Hauenstein v. Lynham*, 100 U.S. 483 (1880); *Chirac v. Chirac*, *supra* note 20.

31. 44 AM. J. INT. L. 543; *New York Times*, May 14, 1950, § L., p. 7, Col. 1; *Time*, May 8, 1950, p. 21, col. 1.

32. *Petition For Hearing*, by Cal., 2d Civil No. 17309, Cal. Sup. Ct. (1950).

33. *Miami Herald*, Nov. 21, 1950, § C, p. 18, col. 1-6.

34. 4 INT. ORG. 550-553 (1950).